

**Chapter 5.52****MASSAGE\*****Sections:**

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**Section 5.52.00E Editor's note to Chapter 5.52.**

Prior ordinance history: Ords. 4109, 3780, 3751, 3673 and 3608.

**Section 5.52.010 Purpose.**

The purpose of this chapter is to protect the public health, safety and welfare by providing minimum building, sanitation and health standards for those establishments in which the practice of massage is performed, and to insure that the persons offering services therein shall possess the minimum qualifications necessary to operate such businesses and to perform such services offered. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.015 Definitions.**

For the purposes of this Chapter, the following words, items and phrases shall have the meaning given herein:

"Massage" means pressure on, friction against, stroking and kneading the body by manual or mechanical means, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, for the purpose of maintaining good health and establishing and

maintaining good physical condition;

A "massagist" is a person who offers to or solicits to perform a massage for compensation, or holds himself out to be a person who manipulates the external parts of the body for remedial or hygienic purposes by rubbing, stroking, kneading, adjusting or tapping with the hand or by instrument, or who actually performs a massage for compensation;

"Practice of massage" means the performance of massage for compensation, either as the owner of or as an employee of a massage business, either at or away from the place of business;

"Recognized school" means a State approved private postsecondary educational institution as defined in Education Code Section 94302 which has for its purpose the teaching of the theory, method, profession or work of massagist, and which school requires a resident course of study of the minimum standards prescribed by the State for graduation from such school or institution of learning showing the successful completion of such course of study. (Ord. 6393 § 27, 1997; Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.020 License required.**

No person, association, partnership or corporation shall conduct or operate an establishment in which the practice of massage is carried on or from which a person is dispatched to administer a massage at another place without obtaining and maintaining in effect a license as required by this Chapter.

No licensee hereunder shall employ any person who practices massage, or who offers to or solicits to perform a massage, or who holds himself out to be a massagist, if said person does not hold a current unrevoked certificate of registration required by this Chapter.

No license shall be issued to any person who is not eighteen years of age or older. (Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.025 Certificate of registration required--Employed by licensee.**

No person shall practice massage, offer to or solicit to practice massage or hold himself out to be a massagist without obtaining and maintaining in effect a certificate of registration as a massagist as required by this Chapter. No certificate shall be issued to any person who is not eighteen years of age or older.

Under no circumstances may an individual practice massage unless such person is also licensed as provided for in Section 5.52.020 or is in the employ of a holder of such a license and is under the direction and control of such licensee. (Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.030 Exemptions.**

This Chapter shall not apply to:

A. The practice of massage in any licensed hospital, nor by any licensed physician, surgeon, chiropractor or osteopath, or any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath;

B. Trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program;

C. Any massage limited to the head, face or neck administered by any licensed barber, beautician or cosmetologist. (Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.040 Application and renewal--Fees.**

An application for a license to operate an establishment in which or from which the practice of massage is conducted, or an application for a certificate of registration to practice massage shall be made to the Chief of Police under penalty of perjury on forms provided by the

Chief of Police, and shall be accompanied by a non-refundable application fee in such amounts as may be established from time to time by resolution of the City Council.

Each license and each certificate of registration issued under this chapter shall expire one year from the date of issuance.

An unrevoked license or certificate of registration may be renewed for one year on written application to the Chief of Police, accompanied by the required renewal fee in such amounts as may be established from time to time by resolution of the City Council. Said application shall be made on a form provided by the Chief of Police, and shall include the applicant's full name and address, the name and address of any person, corporation, partnership or association having a financial interest in the massage establishment, and the names and addresses of all persons employed as massagists at said establishment.

Licenses, certificates of registration, and fees required under this chapter shall be in addition to any license, permit or fee required under any other Chapter of this Code. (Ord. 6477 §1, 1999; Ord. 6290 § 1, 1996; Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.050      Application contents.**

Any applicant for a license or certificate of registration under this chapter shall submit the following information under penalty of perjury:

A. The full name and present residence and business address and telephone number of the applicant and his California driver's license number or California identification number. Any other names or aliases, including nicknames, used by applicant shall be listed. The applicant shall submit any change of address or telephone number which occurs at any time subsequent to being issued a certificate or permit;

B. The full name and present residence and business address of all persons, corporations, partnerships or associations having a financial interest in the massage establishment when a license to operate same is applied for, as well as the name and address of the legal owner of the property. In the event the applicant is not the legal owner of the property, the application must be accompanied by a notarized acknowledgment from the owner of the property that a massage establishment will be located on his/her property, which acknowledgment shall be on a form provided by the Police Department;

C. The previous addresses and dates of said residence of the applicant for a period of three years immediately preceding the date of application;

D. Business, occupation or employment history of the applicant for a period of three years immediately preceding the date of application;

E. A list of massage or similar licenses held by applicant and whether any such license had been revoked or suspended and the reason therefor; and a list of all other massage establishments owned or operated by the applicant in California;

F. Whether the applicant has been convicted of any crime, except minor traffic offenses (any traffic offense that is designated as a felony shall not be construed as a minor traffic offense), and if so, the nature thereof and sentence therefor;

G. Written proof that the applicant is over the age of eighteen years;

H. Applicant's height, weight, color of eyes and hair;

I. The applicant for a certificate of registration must furnish either (1) a diploma or certificate of graduation from a recognized school wherein the theory, method, profession and work of massage is taught, as approved by the California State Department of Education, together with a certified transcript of the applicant's school records showing completion of a course of at least five hundred hours or (2) a diploma or certificate of graduation from an existing school or institution of learning outside the State of California, together with a certified transcript of the applicant's school records showing completion of a course of at least five hundred hours wherein theory, method, profession and work of massage is taught and a copy of

the school's approval by its State Department of Education., or (3) written proof that the applicant has been lawfully employed as a massagist for at least two years prior to the filing of the application;

1. Holders of licenses or certificates of registration issued by the City before the effective date of this chapter, engaged in the practice of massage within the City, shall have a period of two years from the effective date of this chapter to satisfy the educational requirements set forth above. A one year extension may be granted provided that the applicant can document that he or she has completed at least one-half of the necessary hours required to comply with the additional requirements of this chapter.

J. Such other identification and information, including fingerprints or photographs, as is necessary to discover the validity of the matters herein above specified as required to be set forth in the application. (Ord. 6477§ 1, 1999; Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.055 Notification of change.**

An applicant for a license to operate or conduct a massage establishment or a holder of such a license shall report immediately to the Chief of Police any change in address of the persons, corporations, partnerships or associations having a financial interest in the massage establishment, or any transfer of interest in said establishment by such person, corporation, partnership or association. (Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.060 Health certificate.**

Before issuing or renewing a certificate of registration, the Police Chief shall submit the name and address of the applicant to the County Health Officer and shall advise the applicant that he or she must report for examination or, alternatively, the applicant may report to a private medical doctor duly licensed to practice medicine in the State of California for examination. The Police Chief shall not issue a certificate until advised that the applicant has been examined by the County Health Officer or his or her private physician and has been found to be free of any contagious or communicable disease as defined in this chapter.

In addition to the above requirements, upon submission of an initial application for a certificate of registration or upon annual renewal thereafter, the applicant shall submit to the Chief of Police a certificate from a medical doctor stating that the applicant has, within fifteen days immediately prior thereto, been examined and found to be free of any contagious or communicable disease as defined in this chapter; and if said applicant is not so found free of any contagious or communicable disease, his or her certificate of registration shall be revoked by the Police Chief. Failure to provide such health certificate shall result in revocation of certificate of registration held by applicant.

For purposes of this chapter, contagious and communicable diseases shall include Tuberculosis and Hepatitis A, B and C.

Notwithstanding the above, if a person with a communicable disease wishes to be considered for licensing by the City, such individual must provide a report from an appropriate medical specialist concluding that, based upon a recent physical and review of medical records, allowing such individual to practice massage therapy would not interfere with the individual's treatment or health and that the individual's practice of massage therapy would not create a risk to patients, including patients with compromised immune systems. The report shall include any precautions recommended by the medical specialist.

The report or certification of an appropriate medical specialist must provide a description of his/her specialty and practice and including a detailed description of the physical and medical history he/she conducted, including the results of any tests for such individual.

The Chief of Police shall conduct an individualized, case by case assessment based upon the report submitted in determining whether to issue the license. (Ord. 6749 § 1, 2004;

Ord. 6477 § 1, 1999; Ord. 4109 § 1 (part), 1974)

**Section 5.52.065      Facilities necessary.**

No license to conduct a massage establishment or renewal thereof including the renewal for a license issued prior to the adoption of this section shall be issued unless an inspection by the Chief of Police or an authorized employee of the Police Department reveals that the establishment complies with each of the following minimum requirements. Failure to maintain these minimum standards shall be grounds for revocation of the license:

A. A recognizable and legible sign shall be posted at the main entrance identifying the place as a massage establishment, which sign shall comply with the provisions of Title 19 of the Riverside Municipal Code;

B. Minimum lighting shall be provided in accordance with the Uniform Building Code; and, in addition, each room or enclosure where massages are performed on patrons shall be illuminated at any time said room or enclosure is occupied with light having an intensity of not less than seventy-foot candle power at floor level and shall conform to minimum standards as prescribed by the Riverside County Health Department;

C. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided. Equipment shall conform with standards set forth by the Riverside County Health Department;

D. Hot and cold running water shall be provided at all times;

E. Closed cabinets shall be provided and shall be utilized for the storage of clean linen;

F. Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, and a minimum of one toilet and one washbasin shall be provided by every massage establishment; provided, however, that if male and female patrons are to be served simultaneously at said establishment, separate massage rooms, dressing and toilet facilities shall be provided for male and female patrons;

G. All walls, ceilings, floors, pools, showers, bath tubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the establishment is open to the public. Bathtubs shall be thoroughly cleaned after each use;

H. Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted;

I. A minimum of one separate washbasin shall be provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of massage services. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.070      Investigation.**

The Chief of Police shall conduct and complete an investigation of the qualifications and moral character of the applicant and either grant or deny the license or certificate of registration within forty-five days after the submission of the completed application; provided, however, if good cause exists the Chief may extend the period of investigation for an additional thirty days, provided the applicant is notified that the investigation has not been completed. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.080 Refusal to issue license or certificate of registration.**

A. The Chief of Police shall not issue or grant a license or certificate of registration to an applicant under any of the following conditions:

1. The applicant fails to or refuses to furnish the information or documents required by Section 5.52.050 of this Chapter or submits false or misleading information on said application;

2. The massage establishment does not comply with the minimum requirements set forth in Section 5.52.065 of this Chapter or with the City's building fire, health and zoning regulations;

3. The applicant has been convicted of, or has entered a plea of guilty or nolo contendere to any violation of the provisions of this Chapter or any other law or ordinance, unless the Chief of Police finds that the offense is not reasonably related to the occupation being regulated or that the offense was so remote in time as to indicate that the applicant has been rehabilitated, or by other evidence presented to him by the applicant, the Chief of Police determines that the applicant has been rehabilitated;

4. The operation of the establishment will not comport with the peace, health, safety, convenience, good morals, and general welfare of the public. A certificate shall not be issued by the Chief of Police if the issuance of same will not comport with the peace, health, safety, convenience, good morals, and general welfare of the public;

5. Proof that the massage personnel or the owners or operators of a massage business have been convicted of a violation of Section 266i, 315, 316, 318, or Subdivision (b) of Section 647 of the Penal Code, or proof that the massage personnel or the owners or operators of a massage business have been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses of this subdivision;

6. Proof that the massage personnel and the owners or operators of a massage business have been convicted of any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code or proof that the massage personnel or the owners or operators of the massage business have been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses of this subdivision;

7. Proof that the massage personnel or the owners or operators of a massage business are required to register under the provisions of Section 290 of the Penal Code.

Denial of a license or certificate of registration shall be given to the applicant in writing and shall specify the grounds for such denial. Notice of the denial of the license or certificate shall be deemed to have been served upon personal service of the applicant or when deposited in the United States Mail with postage prepaid and addressed to the applicant at his last known address. Such refusal to issue a license or certificate may be appealed to the Massage Appeal Committee under the procedures as set forth in Section 5.52.100 of this Chapter. (Ord. 6863 § 1, 2006; Ord. 4109 § 1 (part), 1974)

**Section 5.52.090 Revocation.**

The Police Chief shall revoke any license or certificate of registration upon any grounds for which he may have refused the issuance thereof or upon conviction or upon a plea of guilty or nolo contendere for any violation of this Chapter.

To revoke a license or certificate of registration the Chief of Police shall serve upon the holder thereof, either by personal service or by certified mail sent to the address shown on the application or otherwise more recently of record, a written notice that said license or certificate of registration shall be revoked effective three days after date of service or date of mailing of said notice. The cause or causes for revocation may be appealed in the same manner as an

original refusal to issue a license or certificate.

A revoked license or certificate of registration shall be immediately surrendered to the Police Chief. (Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.100      Appeal.**

A notice of appeal must be filed with the City Council's Public Safety Committee by depositing said notice with the City Clerk within thirty days after denial of the application or revocation of the license or certificate of registration has been served. Upon the filing of a notice of appeal, the revocation of a license or certificate of registration shall remain in effect until such time as the Committee has rendered a decision.

Upon the filing of the notice of appeal, the City Clerk shall set the matter for hearing before the Committee, which hearing shall be within thirty days after receipt of said notice, and the Committee shall render its decision within ten days after the date of said hearing. The Committee may uphold, reverse or modify the decision of the Police Chief or his authorized representative. In reversing or modifying the Police Chief's determination which was based on a prior conviction, the Committee shall determine whether or not the offense is reasonably related to the occupation being regulated or that the offense was so remote in time as to indicate that the appellant has been rehabilitated; or by other evidence presented, the Committee may determine that the applicant has been rehabilitated and is a reasonable risk except if the license or certificate was denied pursuant to Section 5.52.080A, 7. The decision of the Committee shall be final with no right of further appeal to the City Council. (Ord. 6863 § 2, 2006; Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.110      Inspection.**

An applicant or Licensee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Division, or other City Departments or Agencies to inspect the premise of the massage establishments for the purpose of ensuring compliance with the law and the provisions of this Chapter, at any time it is occupied or open for business. A person who operates a massage establishment or his or her agent or employee is in violation of the provisions of this section if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business. (Ord. 6477 §, 1999; Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.120      Records.**

Every person, association, partnership or corporation operating a massage establishment under a license as herein provided shall keep accurate records which shall indicate the licensee's business name, the date and hour of each massage, the name and address of the patron, and the name of the massagist giving such massage. Such record shall be open to inspection by officials charged with the enforcement of these provisions for the purpose of law enforcement and no other purpose. Identical records shall be kept of massages rendered off the business site, and, in addition, shall include the address where the massage was rendered. Said records shall be maintained and open for inspection for a period of two years and shall be kept on the premises of the massage establishment. (Ord. 4109 § 1 (part), 1974)

#### **Section 5.52.130      Clothing.**

All massagists shall perform their work fully clothed and in hygienically clean apparel. As used in this section, "fully clothed" shall mean the wearing of clothing comparable to the clothing commonly worn by nurses and physical therapists while working in their respective

professions. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.140      Display of license and certificate.**

Every person, partnership, association or corporation to whom or for which a license has been granted shall display said license in a conspicuous place so that the same may readily be seen by persons entering the massage establishment.

The certificate of registration issued to a massagist shall be retained on the person of such massagist while actually engaged in the practice of massage, and shall be displayed to any police officer on demand. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.145      Increase in number of employees--Fees.**

The holder of a current, unrevoked license may provide for an increase in the number of persons to be employed at any one time over the number provided for in the license, by paying for each such additional person a fee of seventy-five dollars, less five dollars for each full month that has elapsed since the issuance of the license or renewal thereof. If the holder had no employees at the time the license was issued or renewed, in addition to the fee of seventy-five dollars for each additional person, the licensee shall also pay the difference between the amount previously paid and that which would have been charged pursuant to the provisions of Section 5.52.040 if said licensee had employed massagists at the time of the application or renewal of the license. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.150      Notification of massagists employed.**

The holder of a license to operate or conduct a massage establishment shall notify the Chief of Police in writing of the name and address of each person employed as a massagist at such establishment within five days after such person is employed.

The requirements of this section are in addition to the provisions of Section 5.52.020, and nothing contained herein shall relieve the licensee of the responsibility of ascertaining prior to employment whether said person has a current unrevoked certificate of registration. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.155      Certified massagist on premises.**

No licensed establishment for the practice of massage shall be open for business without having at least one massagist holding a current unrevoked certificate of registration on the premises at all times when said establishment is open. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.160      Uncertified persons.**

No person other than that person receiving a massage and a massagist who possesses a current unrevoked certificate of registration as a massagist shall be within a room in a licensed massage establishment wherein a massage is being given. (Ord. 4109 § 1 (part), 1974)

**Section 5.52.170      Sale or transfer and change of location.**

Upon the sale or transfer of any interest in a massage establishment, the license shall be null and void. A new application shall be made by any person, partnership, association or corporation desiring to own or operate the massage establishment. A fee of one hundred dollars shall be payable for each such application involving sale or other transfer of any interest in an existing licensed massage establishment.

A change of location of any licensed massage establishment shall be approved by the Chief of Police upon the determination that the requirements of Section 5.52.065 of this Chapter are fully met and upon the payment of a fifty dollar change of location fee. (Ord. 4109 § 1 (part),



1974)

**Section 5.52.180      Penalty.**

Violation of this chapter is a misdemeanor and is punishable in accordance with Section 1.01.110. Revocation of a license or certificate shall not be a defense against prosecution. (Ord. 5258 § 5, 1985; Ord. 4109 § 1 (part), 1974)

**Section 5.52.190      Severability.**

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 4109 § 1 (part), 1974)